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C O N F I D E N T I A L SECTION 01 OF 03 KATHMANDU 000689

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SUBJECT: NEPAL: AGREEMENT ON NEW MAOIST-LED GOVERNMENT
STILL PROVING ELUSIVE

Classified By: Ambassador Nancy J. Powell. Reasons 1.4 (b/d)

Summary

1. (C) Two months after the April 10 Constituent Assembly election, the expected formation of a new Maoist-led government is still proving elusive. Although his Nepali Congress (NC) placed a distant second to the Maoists in the April 10 Constituent Assembly election (CA), Prime Minister G.P. Koirala remains in office. Negotiators for the Maoists, the NC and the third-largest party in the CA, the Communist Party of Nepal - United Marxist Leninist (UML), have reached agreement in principle on the electoral system for the President and the Prime Minister, but not who the first President should be. As a result, the passage of the necessary constitutional amendment to adopt the electoral system is being held hostage. The NC and UML are pushing the Maoists to accept conditions on a range of other issues, including integration of Maoist combatants, demilitarizing the Maoist Young Communist League, return by the Maoists of seized land, and ensuring non-Maoist representation in two key constitutional bodies, before they will consent to the forming of a Maoist government. Maoist patience is wearing thin.

Two Months Later and No New Government

2. (SBU) The main purpose of Nepal's April 10 Constituent Assembly (CA) election was to select a broadly representative body to draft a new constitution, but the Interim Constitution provides that the CA will also serve as Nepal's Parliament. It was widely understood as well that the election would result in a new government. Prior to the election, Prime Minister Girija Prasad Koirala indicated publicly and privately that his political role would be complete once the election was held. The implication was that he would step down as PM and perhaps retire after the vote, but he changed his mind after the results came in. Although his Nepali Congress (NC) placed a distant second to the Maoists (19 vs. 38 percent), Koirala and his cabinet remain in charge. (Note: All seven Communist Party of Nepal - United Marxist Leninist ((UML)) Ministers and Assistant Ministers submitted their resignation on April 16. Koirala

has yet to accept them, but they are not attending cabinet meetings or going to the office. The seven Maoists have threatened to submit theirs as well. End note.)

Resignation After Election the Norm

¶3. (SBU) In the wake of Nepal's three prior general parliamentary elections since the restoration of democracy in 1990, a new government was formed within two weeks of the vote. This was true of the two elections where the NC won a simple majority in the House of Representatives (1991 and 1999). It was true as well of the election in 1994 when the UML won a plurality of 43 percent. In keeping with the tradition in Westminster-based parliamentary systems, the then Prime Minister submitted his resignation once the election results were announced.

Release of Election Results Only Partial Answer

¶4. (SBU) In the previous three elections, the results were known within several days of the vote itself. In the case of the CA election, primarily due to the complicated proportional representation system, the Election Commission could not publish the final allocation of seats by parties until April 25. But that would explain a delay until early May, not mid-June.

Absence of Head of State an Issue For Resignation

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¶5. (C) Previously, outgoing Prime Ministers submitted their resignations to the King. Prior to the abolition of the monarchy at the CA's first session on May 28 and the amendment of the Interim Constitution to create a President on May 29, the Prime Minister was the acting head of state. PM Koirala would have had to resign to himself. According to Manohar Bhattarai, the CA's Acting General Secretary, the problem now is that Koirala is supposed to submit his resignation to the President, but there is no President.

... And Government Formation

¶6. (SBU) Previously, the King was the person who asked the leading party in the Parliament to form the Government. While PM Koirala, in his capacity as acting head of state, formally invited the Maoists to form a government, including in his speech to the Assembly on May 28, his continuing role as the Prime Minister, the head of the second-largest party and an aspirant to the Presidency greatly complicates his role in government formation.

Limited Progress

¶7. (C) The main challenge, however, to forming a new government has been to find a political arrangement which is acceptable to the major parties. Because the Maoists lack a simple majority, let alone the two-thirds required to amend the Interim Constitution, they cannot ignore the views of the NC or the UML, which is the third-largest party in the CA with 18 percent of the elected seats. The three parties have agreed in principle that the President and Vice President, as well as the Prime Minister, shall be elected by simple majority in the CA. The PM will also be removable by simple majority (a change the Maoists had resisted). It will require two-thirds to impeach and remove the President and Vice President. But there is still no agreement by the parties on who should be the next President. Until the next President is agreed upon, neither the NC nor the UML is prepared to join the Maoists in amending the constitution to spell out how the President will be elected. The parties are

also continuing to negotiate on a range of political issues, most of which concern unresolved issues from the peace process.

The Problem of the Presidency

18. (C) Since April 10, the Maoists' position has changed considerably. They campaigned for Maoist Chairman Pushpa Dahal ("Comrade Prachanda") to be Nepal's first (executive) President. They then argued for a Maoist President and a separate Maoist PM. They have since conceded that a non-Maoist could be President, and have floated several names. Dahal has given his staunchest support to the elderly head of a non-parliamentary, leftist Madhesi party, Ram Raja Prasad Singh. The NC is supporting PM Koirala for the position, the UML former General Secretary Madhav Kumar Nepal. The Maoists strongly oppose both Koirala and Nepal. The three main Madhesi parties, of which the largest is the Madhesi People's Rights Forum (MPRF), have indicated they favor Singh. The Maoists and the Madhesis would have a simple majority to vote Singh in, but require the constitutional amendment first. Post will provide more details on the candidates septel.

Other Open Issues

19. (C) In mid-May, the NC issued seven conditions under which it would support a Maoist-led government. The UML issued similar conditions. One of the main negotiators, Prakash

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Sharan Mahat of the NC, told Emboff on June 16 that talks were currently focused on integration of Maoist combatants, return by the Maoists of seized land, and ensuring non-Maoist representation in two key bodies -- the National Security Council and the Constitutional Council. The Maoists were arguing that all of those verified as People's Liberation Army (PLA) combatants by the UN Mission in Nepal should be integrated into the Nepal Army (NA). The NC and the UML were insisting only those who met NA standards could be admitted. The parties had previously agreed in principle that the Maoist Young Communist League (YCL) should be demilitarized.

Maoists Growing Impatient

110. (C) Late on June 16, Dahal gave PM Koirala an ultimatum: make progress toward forming a new government within twenty-four hours or the Maoist Ministers would resign. The five Ministers and two State Ministers had given Dahal a joint resignation letter on June 12. By the end of the day on June 17, however, the parties had made progress and the deadline passed without the group resignation. But by late afternoon on June 18, the talks, which resumed in the morning had failed to achieve a breakthrough. Without any substantive business to conduct, and with the senior leaders from the Maoists, NC and UML absent, the Assembly met for one hour at midday and then recessed without declaring the date for the next session. According to an Embassy source at the Prime Minister's residence, Koirala instructed the CA's Acting Chairman, K.B. Gurung, who is an NC General Secretary, to declare a recess out of concern that there might be scuffles in the Assembly and a possible non-confidence motion by the Maoists if no deal were reached. At close of business, press reports indicated talks were expected to resume in the evening.

Comment

111. (C) The biggest factor contributing to the delay in formation of a new Maoist-led government is a fundamental lack of trust. If the NC and the UML trusted the Maoists not to run roughshod over civil and political rights, they might

not be trying to ensure that a strong, non-Maoist politician became Nepal's first President. If they had confidence the Maoists would meet their commitments and would negotiate in good faith once they were in charge of the government, the NC and UML would not have set so many preconditions. Since the CA election, continued YCL abuses, the murder of a Maoist financier and a particularly poorly chosen public remark by Dahal calling into question the Maoist commitment to press freedom have done little to reassure the parties. The second most important reason is the intransigence, particularly of PM Koirala, of incumbents who wish to preserve their personal and party positions in the face of a significant electoral defeat. Their tactics threaten to undermine the principles they claim to be protecting.

112. (C) The three-party talks on June 17 and 18 appear to be making some progress toward formation of a government, but the situation can change very rapidly here. Continued delay runs the risk of reinforcing popular views that the NC and UML are only concerned with power, not the people. Madhesi leaders are also growing frustrated at their exclusion, once again, from the negotiations. While the post-election process has been largely peaceful so far, street protests and violence, particularly by frustrated Maoist cadres, cannot be ruled out.

POWELL